

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK DIVISION**

JOANNE NEALE, ET AL.,

Plaintiffs,

v.

VOLVO CARS OF NORTH
AMERICA, LLC ET AL.,

Defendants.

Civil Action No. 2:10-CV-04407-
DMC-JAD

**DEFENDANT VOLVO CARS OF
NORTH AMERICA, LLC'S
NOTICE OF MOTION AND
MOTION TO DISMISS
PLAINTIFFS' COMPLAINT
PURSUANT TO FED. R. CIV. P.
12(B)(6), TO DISMISS COUNTS IV
AND V OF THE COMPLAINT
PURSUANT TO FED. R. CIV. P.
9(B), AND, IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT ON
COUNT II OF THE COMPLAINT**

**HEARING DATE: DECEMBER 6,
2010.**

ORAL ARGUMENT REQUESTED

To: Plaintiffs' Counsel

PLEASE TAKE NOTICE that, on December 6, 2010, at 10:00 a.m., or as soon thereafter as counsel may be heard, Defendant Volvo Cars of North America, LLC ("Volvo") will move, by and through its undersigned counsel, before the Honorable Dennis M. Cavanaugh, for entry of an Order granting its motion to dismiss all of Plaintiffs' claims pursuant to Fed. R. Civ. P. 12(b)(6) and to dismiss

Plaintiffs' New Jersey Consumer Fraud Act and negligent misrepresentation claims pursuant to Fed. R. Civ. P. 9(b). In addition, on the same date, in the alternative to the motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) with respect to Count II, Volvo will move for summary judgment on the implied warranty claims of both Plaintiffs.

PLEASE TAKE FURTHER NOTICE that in support of these motions, Volvo will rely upon the Memorandum in Support, declaration, and exhibits submitted. Volvo also relies on its Statement of Material Facts Not In Dispute in support of its motion for summary judgment, and the declaration and exhibits submitted with the statement.

Respectfully submitted,

**HARDIN, KUNDLA, MCKEON &
POLETTI, P.C.**

By s/ Mark S. Kundla

Mark S. Kundla
673 Morris Avenue
Springfield, New Jersey 07081
Phone: (973) 912-5222
Fax: (973) 912-9212
Mkundla@HKMPP.com

Attorneys for Defendant Volvo Cars of
North America, LLC

Date-October 5, 2010